

Appl. No. 10/789,224
Amdt. Dated 10/27/05
Reply to Office Action of 07/27/05

Remarks/Arguments

Applicant would like to thank the examiner for the thorough review of the present application. Applicant respectfully submits a person of ordinary skill in the art understands how Applicant's claimed pressure levels are associated with its accelerating and non-accelerating modes and, therefore, Applicant's specification is enabling. Applicant respectfully submits it is not necessary to "specifically disclose how the switch is operating the specific mechanism", as stated by the examiner, because one skilled in the art understands how to make/use Applicant's claimed invention.

ORIGINAL CLAIMS ARE PATENTABLE

Regarding the examiner's rejection under 35 U.S.C. § 103(a), Applicant respectfully submits the combined teachings of Miller and Lee do not teach all the recitations of Applicant's claimed invention. Applicant's independent claims recite "said non-accelerating mode having a vacuum pressure level above a predetermined limit and said accelerating mode having a vacuum pressure level below the predetermined limit." Miller teaches the opposite; a lower pressure level for a non-accelerating mode and a higher pressure level for an accelerating mode, respectively (see column 3, lines 47-62). Such pressure levels are critical and necessary for Miller's proper and intended function of generating a disabling signal "J", which will inhibit operation of warning lamp actuator 12, as shown in FIG. 1. Therefore, Miller cannot provide a higher pressure level for non-accelerating modes, as claimed by the Applicant.

Applicant's independent claims further recite, inter alia, a first vehicle brake light that flashes during an interval defined after an accelerator pedal is released and before the brake pedal is engaged. Neither Miller nor Lee teaches such a claimed recitation because their warning signal will turn on when engine braking is detected. Miller necessarily and inherently monitors only a function of the engine throttle (see column 4, lines 27-29) and not the brake system. Applicant's brake light will turn off when its brake pedal is engaged, as claimed in the independent claims.

Applicant respectfully submits a person of ordinary skill in the art would not combine Lee's flashing light with Miller's system "so that pedestrians and other drivers

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can have a clear indication that the vehicle is decelerating thus providing additional safety on the road," as reasoned by the examiner. Miller cannot operate a flashing light because its warning lamp actuator 12 is turned on and off by pressure fluctuations in its manifold vacuum (see column 3, lines 47-62). A person of ordinary skill in the art knows that it is difficult and if not impossible to quickly enable and disable Miller's signal "J" in a constant and repetitive manner. Accordingly, Miller necessarily must employ a non-flashing light in order to properly perform its intended function. A reference should be considered as a whole, and portions arguing against or teaching away from the claimed invention must be considered. See *Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc.*, 796 F.2d 443, 230 USPQ 416 (Fed. Cir. 1986).


It is respectfully submitted that the combined teachings of the references applied by the Examiner fail to disclose or even suggest the subject matter of the claims at issue. In view of these considerations, it is respectfully submitted that the rejection of the original claims should be considered as no longer tenable with respect to the above mentioned arguments. All pending dependent claims necessarily include the recitations of their independent claims and therefore are also in condition for allowance.

Should the examiner consider necessary or desirable to make formal changes anywhere in the specification, claims and/or drawings, then it is respectfully asked that such changes be made by examiner's Amendment, if the examiner feels this would facilitate passage of the case to issuance. Alternatively, should the examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned attorney.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
Law Office of Ashkan Najafi, P.A.

By


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